

12 CV 9305

JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNION OF ORTHODOX JEWISH
CONGREGATIONS OF AMERICA
11 Broadway
New York, NY 10004

Plaintiff,

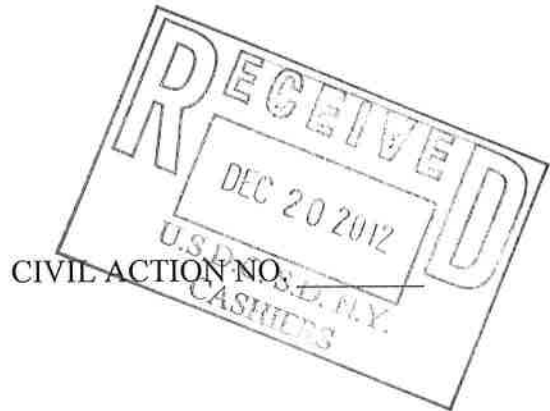
v.

DELTA GROUP NYC, CORP.
5101 2nd Ave.
Brooklyn, NY 11232


Serve on registered agent:

Alaa Morsy
5101 2nd Ave.
Brooklyn, NY 11232

Defendant.



**COMPLAINT
FOR INJUNCTIVE RELIEF
AND DAMAGES**

Plaintiff Union of Orthodox Jewish Congregations of America (the “Orthodox Union”) seeks injunctive and monetary relief against Defendant Delta Group NYC, Corp. (“Delta”) for acts of trademark infringement, false designation of origin, dilution, unfair competition and deceptive trade practices, arising out of Defendant’s use of Orthodox Union’s registered certification mark, , on the labels of its food products. Plaintiff alleges as follows:

PARTIES

1. Plaintiff Orthodox Union is a New York State not-for-profit corporation, with its principal place of business at 11 Broadway, New York, New York, 10004.
2. Defendant Delta Group NYC, Corp., is a New York corporation with its principal place of business at 5101 2nd. Ave., Brooklyn, New York, 11232. Delta is in

the business of importing food products from Egypt and distributing them to at least the state of New York.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that this dispute arises under the laws of the United States. This Court has jurisdiction pursuant to 28 U.S.C. § 1338(a) and (b), in that this dispute arises under the Lanham Act.

4. This Court may exercise personal jurisdiction over Delta because it is a New York corporation with its principal place of business in New York.


5. Venue is proper in this District pursuant to 28 U.S.C. § 1391, because Defendant is subject to personal jurisdiction in this Judicial District and a substantial part of the events giving rise to Plaintiff's claims occurred and had an effect in this District.

BACKGROUND OF THE OU MARK

6. Orthodox Union provides kosher product certifications that are recognized and trusted throughout the world. The word "kosher," in Hebrew, means fit or proper, and is used to describe food items that are prepared in accordance with Jewish dietary laws. The market for kosher foods is sizeable and reaches far beyond those who adhere to the Jewish faith. For example, many Seventh-day Adventists, vegetarians and health-conscious consumers purchase only kosher foods due to the high standards of quality under which they are produced and manufactured. Recently, the kosher consumer market was estimated to include more than 8.5 million consumers.

7. Due to the complexity of kosher laws, and the inability of consumers and other purchasers to determine whether a food product is kosher, consumers and other

purchasers rely upon the certification of agencies like Orthodox Union, which provide kosher supervision and guidance.

8. Orthodox Union is the sole and exclusive owner of the kosher certification mark  (the "OU mark"). Since at least 1925, the OU mark has been used on hundreds of thousands of food and food-related products as an indicator that such products have been certified as kosher by Orthodox Union. Orthodox Union has spent considerable money, time and energy promoting its certification services and its OU mark. The OU mark is the central feature of Orthodox Union's promotional efforts and has received extensive coverage in print and on television and radio, in religious and dietary-conscious media sources, and also in the general interest media.

9. The OU mark has achieved a high degree of consumer recognition and has become famous as the most widely recognized indicator of kosher foods throughout the world.

10. The OU mark is federally registered, Registration Nos. 636,593 and 1,087,891, and has become incontestable. True and correct copies of the Certificates of Registration for the OU mark are attached hereto as Exhibit A.

11. For many consumers, the OU mark is synonymous with Orthodox Union and its certification activities. Accordingly, Orthodox Union vigilantly monitors the authorized and unauthorized use of the OU mark in commerce, in connection with food products and other products and services.

DELTA'S USE OF THE OU MARK

12. Upon information and belief, Delta was incorporated in New York on or about March 11, 2011. Delta imports food products, including frozen vegetables, from Egypt and distributes and sells those products for retail sale in at least the State of New York.

13. Prior to 2006, Delta imported, sold, and distributed food products under the Delta brand that bore an authorized OU mark, which products were certified as kosher according to Orthodox Union's standards. Orthodox Union certified those products as kosher because they were manufactured by a company named Edfina, whose products were certified as kosher by Orthodox Union at that time.

14. In 2006, Orthodox Union revoked the kosher certification of both Edfina and Delta, and revoked the authorization for both companies to use the OU mark. Both parties were notified of the revocation at the time. Since 2006, Delta has not been certified to use the OU mark on any of its products.

15. In October 2012, Orthodox Union learned that Delta was using the OU mark without Orthodox Union's knowledge or authorization in connection with the production, marketing and sale of at least some of its food products. *See* Exhibit B hereto.

16. By letter dated October 23, 2012, Orthodox Union informed Delta that its use of the OU mark was unauthorized and constituted trademark infringement and unfair competition under federal and state law. In that letter, Orthodox Union demanded that Delta "immediately stop all unauthorized use of the [OU] mark, including the sale and distribution of products with the unauthorized [OU] mark and in any other fashion," and

requested written confirmation of all steps taken by Delta to terminate all unauthorized use of the OU mark by Friday, November 2, 2012. Letter from Gad Buchbinder to Delta, dated 10/23/12, attached hereto as Exhibit C.

17. Orthodox Union received no response to Mr. Buchbinder's October 23 letter.

18. On November 28, 2012, Orthodox Union (through counsel) sent notice to Delta through its registered agent, Alaa Morsy, that Delta's continued use of the OU mark was unauthorized and constituted trademark infringement and unfair competition. Orthodox Union's counsel demanded that Delta or Delta's counsel contact him by 5:00 p.m. on Thursday, December 6, 2012, or Orthodox Union would have to choose but to pursue appropriate legal remedies. *See* Letter from David J. Butler to A. Morsy, dated 11/28/12, attached hereto as Exhibit D.

19. In early December, 2012, Orthodox Union received a voicemail message from someone purporting to represent Delta. The person left no name, no phone number, nor any other means by which he could be contacted. The caller's message did indicate, however, that he would call back at a later date.

20. Orthodox Union has not received any further contact from Delta or anyone purporting to represent Delta.

21. As of the date of this Complaint, Delta continues its unauthorized use of the OU mark in the same manner as before, and the company continues to infringe Orthodox Union's valuable trademark rights knowingly and willfully.

COUNT I

Federal Trademark Infringement

22. Orthodox Union incorporates and realleges the allegations in paragraphs 1-21 of this Complaint.

23. Delta's unauthorized use in commerce of Orthodox Union's OU mark in connection with the marketing and sale of Delta's products has caused and is likely to cause confusion, or to cause mistake, or to cause deception as to the origin, sponsorship or approval of such goods by Orthodox Union, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

24. Delta began its offending use of the OU mark without consultation with or notice to Orthodox Union, and in complete disregard of Orthodox Union's rights.

25. Delta was notified that its products manufactured by Edfina were no longer authorized to bear the OU mark. Neither Delta nor Edfina have been certified as kosher according to Orthodox Union standards since 2006. Any use of the OU mark in connection with the marketing and sale of Delta's products since 2006 has been done with knowledge that Delta had no authorization to use the OU mark.

26. Delta has known that the OU mark is a registered certification mark owned by Orthodox Union since at least 2005.

27. Delta's conduct has injured Orthodox Union and kosher consumers who rely on Orthodox Union and the OU mark as an indicator that a merchant or a product has been supervised, endorsed, or approved by Orthodox Union.

COUNT II

False Designation of Origin, 15 U.S.C. § 1125(a)

28. Orthodox Union incorporates and realleges the allegations of Paragraphs 1 through 27 of this Complaint.

29. Delta's unauthorized use in commerce of the OU mark constitutes a false designation of origin, a false or misleading description of fact, and a false or misleading representation of fact which has caused and is likely to cause confusion, or to cause mistake, or to cause deception as to the affiliation, connection or association of Delta or its products with Orthodox Union, or as to the origin, sponsorship or approval by Orthodox Union of Delta's products, in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

30. Delta's conduct has injured Orthodox Union and kosher consumers who rely on Orthodox Union and the OU mark as an indicator that a merchant or a product has been supervised, endorsed, or approved by Orthodox Union.

COUNT III

Dilution of Famous Mark Under § 43(c) of Lanham Act, 15 U.S.C. § 1125(c)

31. Orthodox Union repeats and incorporates the allegations of Paragraphs 1 through 30 of this Complaint.

32. Orthodox Union's OU mark is a famous mark under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), in that the mark is distinctive, has been used for many years in many locations throughout the world, and is widely recognized therein, has been widely advertised and publicized, and has not been used by any person or entity other than Orthodox Union.

33. After the OU mark became famous, and after being informed that its products were no longer certified kosher by Orthodox Union, Delta began using the mark in a manner that causes dilution of the distinctive quality of the mark.

34. Consumers familiar with the OU mark have recognized the mark used in the marketing of Delta's products as a representation of the OU mark, and have been misled to conclude that Delta, or its products, are affiliated with or endorsed by Orthodox Union.

35. Defendant's conduct has caused injury to Orthodox Union and to kosher consumers who associated the OU mark with Delta's products under the mistaken belief that those products are affiliated with, endorsed by, or manufactured under the supervision of Orthodox Union.

COUNT IV

Common Law Unfair Competition and Trademark Infringement

36. Orthodox Union incorporates and realleges Paragraphs 1 through 35 of this Complaint.

37. By its wrongful actions as described above, Delta has violated and infringed Orthodox Union's common law rights in its certification mark, and has competed unfairly with Orthodox Union under the common law of the State of New York.

38. Delta's conduct amounts to deceit. By labeling its goods with the OU mark, Delta is passing off its goods as being affiliated with or endorsed by Orthodox Union. Delta's conduct is likely to deceive or confuse the kosher consuming public, and thereby generate profits that, but for said deception, Delta would not have received.

39. Delta's continuing distribution and sale of such products with the OU mark, after being notified in 2006 that it was no longer authorized to do so, and again after being notified in 2012 that it was prohibited from doing so, constitutes willful infringing activity that has caused and will continue to cause immediate, substantial and irreparable injury to Orthodox Union, including irreparable injury to the OU mark, its reputation and its goodwill. In addition, Delta's infringing acts have caused Orthodox Union to suffer damages.

WHEREFORE, Orthodox Union respectfully requests that this Court:

(1) Issue a preliminary injunction and a permanent injunction enjoining Delta from any further unauthorized use of the OU mark, and directing Delta to take immediate corrective action to remove from the marketplace any Delta products which bear the unauthorized OU mark, and to terminate any marketing, advertising, or other activities that involve unauthorized use of the OU mark.

(2) Order Delta to render an accounting to Orthodox Union of all of Delta's unauthorized use of the OU mark;

(3) Order Delta to render an accounting to Orthodox Union of all sales, and profits gained from the sale of products, bearing or sold in connection with Delta's use of an unauthorized OU mark;

(4) Award damages to Orthodox Union in an amount to be determined at trial;

(5) Award damages to Orthodox Union in an amount of three times the amount of Orthodox Union's damages or Delta's profits, whichever is greater, pursuant to 15 U.S.C. § 1117 and/or award statutory damages to Orthodox Union pursuant to 15 U.S.C. § 1117(c) for Defendants' intentional and willful use of the OU mark;

(6) Award exemplary and punitive damages to Orthodox Union in an amount to be determined at trial;

(7) Declare this to be an “exceptional” case within the meaning of 15 U.S.C. § 1117(a), and award Orthodox Union its costs and attorneys’ fees incurred in connection with this action under 15 U.S.C. § 1117(a), and as otherwise permitted by law;

(8) Award pre- and post-judgment interest to Orthodox Union on all sums due from Delta; and

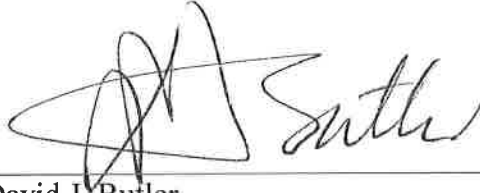
(9) Award such other and further relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Orthodox Union respectfully requests trial by jury on all claims so triable.

Dated: December 19, 2012

BINGHAM McCUTCHEN LLP

A handwritten signature in black ink, appearing to read "D. Butler", is written over a horizontal line.

David J. Butler
david.butler@bingham.com
399 Park Avenue
New York, NY 10022
Telephone: 212.705.7000
Facsimile: 212.752.5378

and

2020 K Street, NW
Washington, DC 20006
Telephone: 202.373.6000
Facsimile: 202.373.6001

*Attorney for Plaintiff Union of Orthodox Jewish
Congregations of America*

EXHIBIT A

The United States of America



CERTIFICATE OF RENEWAL

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for renewal of registration of the Mark shown herein, a copy of said Mark and pertinent data from the Registration being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Registration renewed under the Trademark Act of 1946, as amended, and said Registration has been duly renewed in the Patent and Trademark Office to the registrant named herein.

This Registration shall remain in force for TEN years from the date that said Registration was due to expire unless sooner terminated as provided by law.



In Testimony whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this twenty-second day of October 1996.

Bruce Lehman

Commissioner of Patents and Trademarks

Prior U.S. Cls.: A and A

United States Patent and Trademark Office
10 Year Renewal

Reg. No. 638,593

Registered Oct. 30, 1956

Renewal Term Begins Oct. 30, 1996

**CERTIFICATION MARK
GOODS
PRINCIPAL REGISTER**



UNION OF ORTHODOX JEWISH CON-
GREGATIONS OF AMERICA (NEW
YORK CORPORATION)
333 SEVENTH AVENUE
NEW YORK, NY 10001

THE MARK CERTIFIES THAT THE
PRODUCTION OF THE SAID GOODS
HAS BEEN SUPERVISED BY THE RAB-
BINICAL SUPERVISORS OF THE AP-

PLICANT, UNDER THE DIRECTION OF
HISTADRUTH HORABONIM DE AMER-
ICA, RABBINICAL COUNCIL OF AMER-
ICA, INC.

FOR: FOODS, DETERGENTS AND
HOUSEHOLD CLEANERS, IN CLASS A
FIRST USE 0-0-1923; IN COMMERCE
0-0-1923

SER. NO. 72-001,024, FILED 1-18-1956

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 22, 1996.*

COMMISSIONER OF PATENTS AND TRADEMARKS

The United States of America



CERTIFICATE OF RENEWAL

The registration shown in this certificate has been renewed in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for renewal of the registration for the mark shown in this certificate was filed in the Office, that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks, and that the registrant is entitled to renewal of the registration for the mark under the Trademark Act of 1946, as Amended.

A copy of the mark and pertinent data from the registration are a part of this certificate.

This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law.

Bence Lehman

Commissioner of Patents and Trademarks

Prior U.S. Cls: A, 200, A and B
United States Patent and Trademark Office
10 Year Renewal

Reg. No. 1,087,391
Registered Mar. 21, 1978
Renewal Term Begins Mar. 21, 1998

CERTIFICATION MARK
GOODS
PRINCIPAL REGISTER



UNION OF ORTHODOX JEWISH CON-
GREGATIONS (NEW YORK CORPO-
RATION)
333 SEVENTH AVENUE
NEW YORK, NY 10001

OWNER OF U.S. REG. NO. 634,391.
THE CERTIFICATION MARK AS
USED BY PERSONS AUTHORIZED BY
APPLICANT CERTIFIES THAT THE
PRODUCTION OF SAID GOODS AND
THAT THE RENDERING OF SAID
SERVICES HAS BEEN SUPERVISED BY
THE RABBINICAL SUPERVISORS OF
THE APPLICANT, UNDER THE DIREC-
TION OF HISTADRUTH HORABONIM
DE AMERICA-RABBINIC COUNCIL
OF AMERICA, INC.

FOR: PACKAGING MATERIALS AND
WRAPS; BROILING AND BAKING
PANS; FLAVORS; EXTRACTS AND
FOOD COLORINGS; WINE, LIQUEURS,
AND CORDIALS; NON-ALCOHOLIC
BEVERAGES; SPICES AND SEASON-
INGS; AND SOAPS, IN CLASS A
FIRST USE 0-0-1925; IN COMMERCE
0-0-1925.

FOR: HOTEL CAMP RESTAURANT
AND CATERING SERVICES, FOOD
SERVICES IN HOSPITALS AND OTHER
INSTITUTIONS AND FOR TRAVEL-
ERS ON AIRLINES, IN CLASS B
FIRST USE 0-0-1961; IN COMMERCE
0-0-1961.

SER. NO. 73-130,761, FILED 4-17-1977.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Dec. 9, 1997.*



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)

Trademarks > Trademark Electronic Search System(Tess)

TESS was last updated on Wed Mar 7 04:18:07 EST 2007

[TESS HOME](#) [NEW USER](#) [STRUCTURED](#) [FREE FORM](#) [BROWSE/DIR](#) [SEARCH OG](#) [BOTTOM](#) [HELP](#)

[Logout](#) Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TARR Status](#) [ASSIGN Status](#) [TDR](#) [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)



**Word Mark
Goods and
Services**

OU

IC A . US A . G & S: PACKAGING MATERIALS AND WRAPS; BROILING AND BAKING PANS; FLAVORS, EXTRACTS AND FOOD COLORINGS; WINE, LIQUEURS, AND CORDIALS; NON-ALCOHOLIC BEVERAGES; SPICES AND SEASONINGS; AND SOAPS. FIRST USE: 19250000. FIRST USE IN COMMERCE: 19250000

IC B . US B . G & S: HOTEL CAMP RESTAURANT AND CATERING SERVICES, FOOD SERVICES IN HOSPITALS AND OTHER INSTITUTIONS AND FOR TRAVELLERS ON AIRLINES. FIRST USE: 19610000. FIRST USE IN COMMERCE: 19610000

**Mark Drawing
Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Design Search
Code**

Serial Number 73130761

Filing Date June 17, 1977

**Current Filing
Basis** 1A

**Original Filing
Basis** 1A

**Change In
Registration** CHANGE IN REGISTRATION HAS OCCURRED

**Registration
Number** 1087891

**Registration
Date** March 21, 1978

Owner (REGISTRANT) UNION OF ORTHODOX JEWISH CONGREGATIONS OF AMERICA

CORPORATION NEW YORK 333 SEVENTH AVENUE NEW YORK NEW YORK 10001

Attorney of Record Edward A. Pennington, Esq.

Prior Registrations 0636593

Type of Mark CERTIFICATION MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Renewal 1ST RENEWAL 19971030

Other Data THE CERTIFICATION MARK AS USED BY PERSONS AUTHORIZED BY APPLICANT CERTIFIES THAT THE PRODUCTION OF SAID GOODS AND THAT THE RENDERING OF SAID SERVICES HAS BEEN SUPERVISED BY THE RABBINICAL SUPERVISORS OF THE APPLICANT, UNDER THE DIRECTION OF HISTADRUTH HORABONIM DE AMERICA-RABBINICA COUNCIL OF AMERICA, INC.

Live/Dead Indicator LIVE

[TESS HOME](#)
[NEW USER](#)
[STRUCTURED](#)
[FREE FORM](#)
[BROWSE DATA](#)
[SEARCH OG](#)
[TOP](#)
[HELP](#)

[\[.HOME\]](#)
[\[SITE INDEX\]](#)
[\[SEARCH\]](#)
[\[eBUSINESS\]](#)
[\[HELP\]](#)
[\[PRIVACY POLICY\]](#)

EXHIBIT B













EXHIBIT C

Established 1898



Orthodox Union

Union of Orthodox Jewish Congregations of America • איחוד קהילות האורתודוקסים באמריקה
Eleven Broadway • New York, NY 10004-1303 • Tel: 212-563-4000 • Fax: 212-564-9058 • www.ou.org

KASHRUTH DIVISION

DR. SIMCHA KATZ
President

Harvey Biltz
Chairman

DAVID FUND
Vice Chairman

RABBI MENACHEM GENACK
Rabbinic Administrator, CEO

RABBI ALEXANDER S. ROSENBERG
Rabbinic Administrator (1950-1972)


October 23, 2012




Delta Group Corp.
5101 2nd Avenue
Brooklyn NY 11232


VIA U.S MAIL

To Whom It May Concern:

Re: Our case # 15935

The Union of Orthodox Jewish Congregations of America ("Orthodox Union") provides kosher certification services, and is the registered owner of the famous  certification mark.

It has come to our attention that Delta Group Corp. ("Delta") is using the  mark without authorization in the operation of its business. Specifically, many of your Delta frozen vegetables have the  mark on them (see attached image). Such use of the  mark constitutes trademark infringement and unfair competition under federal and state law, and misleads the consuming public regarding the kosher status of your business operation and the food products it is selling.

It is the policy of the Orthodox Union to enforce its valuable rights in its world-renowned certification mark and to stop all unauthorized uses of its certification mark. Your case is no exception. While most such cases are resolved amicably, Orthodox Union is prepared to seek full enforcement of its trademark rights in court, and to pursue necessary injunctive relief, damages and the payment of attorney's fees by offenders. We also reserve the right to publish notices informing the public about your unauthorized use of the  mark.

I am aware that years ago, the Orthodox Union certified those products because they were manufactured by Edfina, but the Orthodox Union has not certified Edfina since 2006, and both Edfina and Delta were notified about this at that time.

The Orthodox Union demands that Delta immediately stop all unauthorized use of the ® mark, including the sale and distribution of products with the unauthorized ® mark in any other fashion. **We further demand that you provide written notice to me (by electronic and US mail) by no later than Friday, November 2, 2012 of all steps Delta has taken to terminate all unauthorized uses of the mark in the operation of its business.**

The promptness and completeness of your response will determine our next action. This letter is written without prejudice to any of Orthodox Union's rights or remedies, all of which are expressly reserved.

Please contact me if you have any questions.

Sincerely,



Gad Buchbinder
Counsel
Orthodox Union Kashruth Division
212-613-8344
buchbinder@ou.org

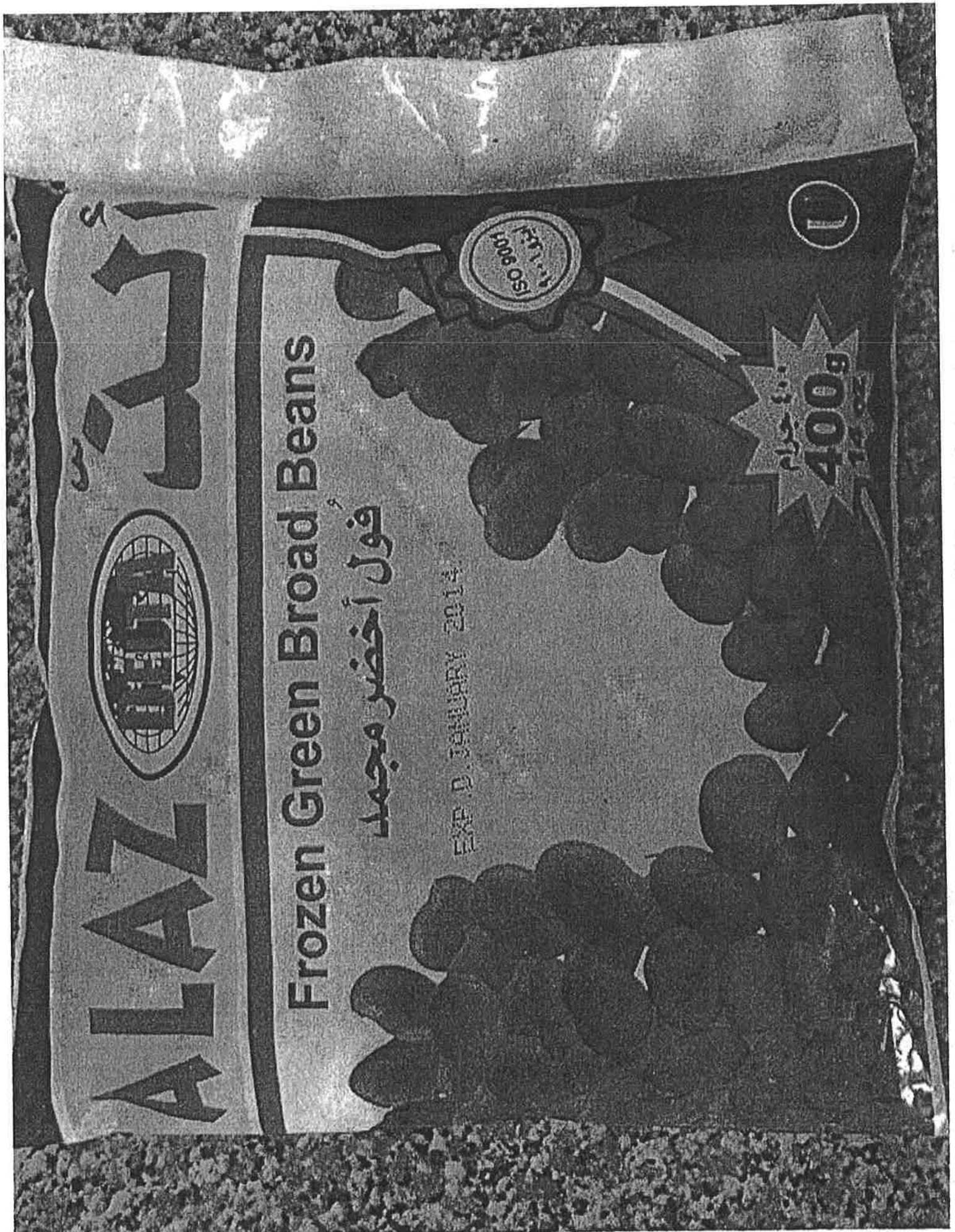


EXHIBIT D

BINGHAM

David J. Butler
Direct Phone: 202.373.6723
Direct Fax: 202.373.6418
E-Mail: david.butler@bingham.com

November 28, 2012

Via Facsimile (718-832-5303) & U.S. Mail

Alaa Morsy,
Registered Agent
Delta Group NYC, Corp.
5101 2nd Ave.
Brooklyn, NY 11232

Re: Unauthorized Use of ® Certification Mark

Dear Mr. Morsy:

This firm represents the Union of Orthodox Jewish Congregations of America ("Orthodox Union"). Orthodox Union is the owner of the famous ® certification mark (the "® mark"), which is registered under U.S. Federal Trademark Nos. 636,593 and 1,087,891, and has become incontestable. The famous ® certification mark has been used continuously by the Orthodox Union since at least 1925 for kosher certification of food products and other items, and has become recognized all over the world as the preeminent kosher product certification mark.

I am writing to follow up on a demand letter dated October 23, 2012 that was sent to you by Gad Buchbinder, counsel at the Orthodox Union. As recounted in Mr. Buchbinder's letter, Orthodox Union learned that Delta Group NYC, Corp. ("Delta") is using the ® mark on the labels of many Delta Group Corp. frozen vegetables. Such use of the ® mark causes confusion or mistake among consumers as to the sponsorship or approval of Delta's operations and offerings, in violation of Sections 32 and 43 of the Lanham Act, 15 U.S.C. §§1114(1) and 1125(a), and under New York state law. Delta's unauthorized use of the ® mark also dilutes the value of the ® mark, and constitutes trademark infringement and unfair competition.

This infringement activity by Delta Group is a serious matter, and must stop immediately. Orthodox Union is prepared to take all necessary steps to protect its rights in the ® mark. More than a month has elapsed since your

Beijing
Boston
Frankfurt
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

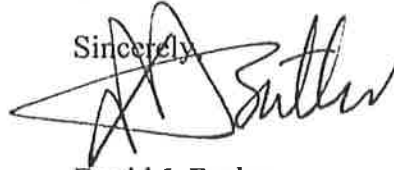
T +1.202.373.6000
F +1.202.373.6001
bingham.com

Alaa Morsy
November 28, 2012
Page 2

receipt of Mr. Buchbinder's demand letter. You have not responded to the letter, and your company's infringing activity appears to be continuing.

The purpose for this letter is to give you and Delta Group one last opportunity to comply with the demands in Mr. Buchbinder's letter, or face an enforcement action by Orthodox Union. You or your counsel have until 5:00 pm on Thursday, December 6, 2012 to contact me regarding termination of all unauthorized use of the ® mark. If I do not hear from you or your counsel by that deadline, I have been instructed by Orthodox Union to pursue an appropriate legal remedy, and will do so. Please govern yourself accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Butler", written over the word "Sincerely,".

David J. Butler

cc: Mr. Gad Buchbinder